

**North Carolina 911 Board  
MINUTES  
January 18, 2008**

<b><u>Members Present</u></b>	<b><u>Staff Present</u></b>	<b><u>Guest</u></b>
Jason Barbour (NCNENA) pending	Ron Adams (ITS)	David Barnes (Poyner & Spruill)
Wayne Bowers (NCLM)	Richard Bradford (DOJ)	Jerry Boggs (NCNENA)
Robert Cherry (Police Chief)	Marsha Tapler (ITS)	Valerie Carter (ITS)
Alan Cloninger (Sheriff)	Richard Taylor (ITS)	Jim Clark (Synergem)
Dave Corn (LEC)		Jerri Daffron (Lenoir Co 911)
Bill Craigle (CMRS)		Delbert Edwards (Wayne Co)
Christi Derreberry (CMRS)		Barry Furey (Raleigh/Wake 911)
David Dodd (NCAPCO)		Lisa Hughes (Moore Co)
Joe Durham (NCACC)		Doug Kiger (Kernersville Police)
Anand Gandhi (CMRS)		Chris Koltyk (Moore Co)
Jerry Jones (LEC)		Lamerle Lee (Intrado)
Wesley Reid (NCNENA)		Kevin Medlin (Orange Co)
Slayton Stewart (CMRS)		Pamela Meyer (Durham Co)
Laura Sykora (LEC) pending		Amy Oakley (UNC/CH Pub Safety)
Jean Thaxton (LEC) pending		Jeff Parrott (Moore Co)
Bill Willis (Deputy NC CIO)		Tonya Pearce (NCNENA)
		Philip Penny (Positron)
<b><u>Members Absent</u></b>	<b><u>Staff Absent</u></b>	Michael Reitz (NCAPCO)
		Kris Sheffield (Moore Co)
		Ryan Spong (Kernersville Police)
		Amanda Thaxton (Bd Mbr Guest)
		Rebecca Troutman (NCACC)

**Chair's Welcoming Remarks:**

Chairman Willis opened the meeting at 10:00, noting that this was the first meeting of the newly constituted 911 Board. He reminded guests that although they are certainly welcome, this is a Board meeting and the discussion of agenda items would be limited to Board members; there is no public comment section in the agenda. He observed the work of the Board is very important, and that he anticipates all of the Board members that have been appointed and selected will participate fully and attend. He reminded Board members that if they should miss three consecutive meetings, he will contact the appointing authority and request that they be removed from the Board and replaced with

a new appointment, since consistency and participation are critical to the Board accomplishing what it needs to do.

Chairman Willis continued by thanking Joe Durham for providing the facility for this meeting. He then introduced new Board members, noting, however, that a few have not quite completed their ethics clearing, so that although they may participate in discussion, they would not be able to vote at this meeting. He began with Jason Barbour from Johnston County, representing NENA on the Board. He continued with Jerry Jones, who had previously served on the Wireless 911 Board representing CMRS providers, but had been appointed to the 911 Board representing LECs, and after that he introduced Laura Sykora from Embarq and Jean Thaxton from Randolph Telephone Company. It was noted that Jason Barbour, Laura Sykora and Jean Thaxton would not be eligible to vote during this meeting.

### **Ethics Awareness/Conflict of Interest Statement**

Chairman Willis read the conflict of interest statement printed on the agenda and asked if any Board members wished to note any potential conflicts. None were cited.

### **Approval of Minutes**

Chairman Willis asked if any member of the Board had any corrections to the minutes of the November 9, 2007 Wireless 911 Board meeting. Hearing none, he asked for a motion to accept the minutes. Robert Cherry so moved, Sheriff Cloninger seconded, and the motion carried without objection.

### **Election of Board Vice Chairman**

Chairman Willis entertained nominations for Vice Chairman of the 911 Board. Alan Cloninger nominated Joe Durham. Hearing no other nominations, Chairman Willis asked for a motion to appoint Mr. Durham as Vice Chairman. Wayne Bowers so moved, Slayton Stewart seconded, and the motion carried without objection.

### **Update of Katrina Order and the Impact on CMRS Cost Recovery**

Richard Bradford reviewed the discussion of the Katrina Order which occurred at the November 9, 2007 Wireless 911 Board meeting to provide a background for new Board members. That discussion centered on whether CMRS providers were entitled to cost recovery for backup power generators based on the findings of the Katrina Panel. The discussion culminated in a request for him to gather more information and report back to the Board at this meeting. He has determined that the Katrina Order is in a different FCC Docket than 94-102, so the two are not tied together. He added that no mention of 94-102 appears in any part of the Katrina Order, which means an argument can be made that CMRS providers are not entitled to reimbursement. He added that he does believe, however, that the Board has some discretion in determining whether or not it wishes to provide such cost recovery regardless of whether or not it is required to. If the Board chose to do that, he believes there is language in the new statute that could support such a choice through rule making, but he concluded by saying that the better argument is that such costs are not eligible for cost recovery.

Chairman Willis observed that other agenda items will be addressing the issue of eligible use of 911 funds, among them a list presented by NENA and APCO of items they would like to see considered. Mr. Durham asked if this item would be added to that list; if it would be addressed by the Board at a later date. Chairman Willis replied that it certainly may be addressed, and that the Board may have some discretion regarding it, but reiterated that Board counsel believes the better argument is that CMRS provider costs for backup power generation are not eligible for cost recovery.

Slayton Stewart asked if any other States were offering cost recovery for this item, and Richard Taylor responded that to his knowledge none were. Mr. Stewart observed then there was no precedent, and Mr. Taylor replied there was not. Richard Bradford said he would agree; that the Katrina Order is quite recent, and for that reason alone there are probably very few states that have addressed this directly as a result of the order. He said they may have other statutes or rules that relate to this, but he is not aware of any.

### **Update on FCC Activity and Federal Legislation**

Richard Taylor reported that his counterpart in Tennessee has been working on a petition to the FCC to ask for reconsideration of its approach to non service initialized (NSI) phone access to 911. He said that abuse of 911 access through un-initialized phones is a huge problem in PSAPs; it is not just an occasional prank call or child playing with a phone, but a problem that can severely compromise a PSAP's ability to function. The FCC initially required CMRS providers to complete 911 calls from uninitialized phones to maximize the public's access to emergency assistance regardless of whether or not the phone is activated under a service plan. It subsequently ruled that if a PSAP reported a problem with abuse of a specific NSI phone to a CMRS provider, and requested the phone be denied access to 911 to resolve the problem, the CMRS provider could do so if the technology of the carrier allowed denial of access without being in violation of the FCC mandate. Despite that, most CMRS providers are uncomfortable with the potential liability involved, and are reluctant to cooperate with PSAPs when they make such requests.

Mr. Taylor said Tennessee has collected data within its own State and Florida, and they are petitioning the FCC to look at this issue again. They are not proposing alternative solutions or ideas; they are simply asking that the issue be revisited to see if someone cannot come up with a better way of addressing it. Richard added that much has changed with the passage of time since the original determination. He said that Tennessee has asked this Board to sign on with them in this filing, and he has discussed it with Richard Bradford. He then asked Mr. Bradford to offer his opinion.

Mr. Bradford said that the petition is fairly well written, but he suggests that this Board not sign on to it; the reason is that we don't have the data. He said that if we had the data to present to the FCC, then it would probably be a good idea, as this has been a problem and the FCC has indicated a willingness to address it. Without the data, however, there isn't a specific factual finding for the FCC to make. Mr. Bradford said that in his opinion it would probably be better, for all parties concerned, if the application were limited to only those States that can present data. That would allow the FCC to

either make a factual finding or direct people to do so. When they do that, they may also direct the providers to help supply the information, which he thinks is a better outcome.

Wesley Reid asked if there was another way to indicate support without actually signing on to the petition; something in between. Mr. Bradford replied that within the procedural aspect of petitions at the FCC there is a comment period. So people can file comments and then comments to the comments in the reply period. Mr. Bradford said he would suggest that would be a better course of action. He added that in the meantime, if we do have PSAPs that could collect the information, then we could supply that in a comment or reply comment during that period.

Chairman Willis asked if anyone present could supply such data, and Wesley Reid replied that NENA could probably poll PSAPs throughout the state and gather some. Richard Taylor observed that collecting the data would require call takers to record information; telephone equipment records and reports would not be able to provide it.

Chairman Willis observed that there appeared to be a couple of courses of action open to the Board. One would be to indicate support during the comment period. Another option is to join the petition or make a concerted effort to gather real data and then join the petition. He asked if anyone wished to propose a position.

Christi Derreberry asked if there was any way to get a copy of Tennessee's questionnaire to see if there are times when the NSI phone connectivity has helped; for example, if there are instances where phones provided to battered women's shelters have had a positive impact. Richard Taylor replied that only anecdotal information would be available for that, noting that the industry and CTIA offered to initialize phones used in such applications several years back, but had since stopped the service because of the limited response they received. Sheriff Cloninger said that his wife is the director of a battered women's shelter, and that this is a big issue. Mr. Taylor responded that it is, and that the problem with providing an uninitialized phone to a battered spouse is that it doesn't provide the ANI and the ALI. Such a phone offers a false sense of security, since the 911 telecommunicator does not know the caller's location if she cannot verbally provide it.

Slayton Stewart asked if things weren't different now with digital GSM technology being capable of providing location information for uninitialized phones. He speculated that some of the problems may go away with providers turning down their analog networks; that the newer technology should be able to identify the location of legitimate calls for help from uninitialized phones.

Chairman Willis observed that although this is an interesting discussion in the realm of "if" and anecdotal information, such realms make him nervous when talking about the FCC and the kinds of things being discussed. He returned focus to his request for someone to offer a position for the Board to take. He said the Board can support this during the comment period without gathering data. He also reminded everyone that the petition is only asking that the issue be reconsidered, not for a specific remedy. Wesley Reid made a motion that the Board support the Tennessee petition requesting FCC reconsideration of the use of NSI phones to place 911 calls with a letter of support

during the comment period, David Dodd seconded, and the motion carried without opposition.

Chairman Willis then asked if it is the will of this Board to gather specific data regarding NSI phone issues from North Carolina PSAPs. Slayton Stewart made a motion to move forward with specific data collection, but no second was offered. Chairman Willis observed that such data collection requires time and money and is not something that can just be randomly assigned to staff. Chief Cherry asked Richard Taylor how long it would take to have somebody go to all the PSAPs, or use some type of questionnaire. Mr. Taylor said that since few PSAPs are probably recording such information now, he would suggest using a form to manually record 911 call data coming from NSI phones over a 30 day period; that pulling single incidents from any time period would not provide a good overview of the problem.

Chairman Willis offered a suggestion that since NENA and APCO both have representation on the Board, and since the PSAPs those organizations represent are the ones that will have to put forth effort to gather this data, that the Board state it is interested in gathering the data and ask NENA and APCO to go to their constituent groups to determine if they would be willing to collect and provide it. Sheriff Cloninger also asked if staff would contact women's shelters throughout the State, or through the State office, to ask them for input. Richard Taylor indicated he would do that. Returning to the PSAP data collection, Chairman Willis said he did not think it was the Board's position to impose such data collection, but that NENA and APCO are appropriately situated to poll the PSAPs and suggest a way to gather this data that would have the least impact on the centers. Wesley Reid asked if Chairman Willis wanted the NENA and APCO representatives to report back to the Board at its next regularly scheduled meeting, and Chairman Willis said he would like them to report back with a suggestion for how to best gather the data, not the data itself. Mr. Reid said he would be willing to do that.

### **Approval of Cost Recovery Plan**

Richard Taylor reported that Atlantic Telephone Membership Corporation (ATMC) had previously submitted a cost recovery plan that had not been approved, but their resubmitted plan met the necessary requirements for cost recovery and the staff recommendation was to approve it. Sheriff Cloninger made a motion to accept the staff recommendation, David Dodd seconded, and the motion passed without opposition. (voting by show of hands were Wayne Bowers, Robert Cherry, Alan Cloninger, Dave Corn, Bill Craigle, Christie Derreberry, David Dodd, Joe Durham, Anand Gandhi, Jerry Jones, Wesley Reid, and Slayton Stewart)

### **Update on Comprehensive Statewide 911 Plan**

Richard Taylor reported that Intrado has developed a survey instrument and has conducted several test bed PSAP visits to ensure the data being collected is sufficient and to get a feel for how difficult or easy it will be to gather. He said they have presently scheduled about 30 visits over the next two weeks and will be continuing until all the visits are accomplished, adding that the project is on schedule.

### **Update on Annual PSAP Audit**

Ron Adams reported that the 2006 audits for 4 counties were still incomplete; in three instances agreement has been reached on what modifications need to be made and submission of a revised report was all that remained, and in one instance the local government is still questioning why some of the expenditures they listed were ineligible. He said that the 2007 reports were coming along well with 59 completed, 12 in process of clarification, and 58 still outstanding; reminder letters will be sent on February 1<sup>st</sup> to those entities which have still not submitted their report by that date.

Sheriff Cloninger asked if he correctly understood that reports had been due in mid-December. Ron confirmed they had, but in the past the report cycle had been to request reports in January and submission by March. He speculated that bumping it up to December because of this year's unique situation may have blind-sided some of them, so he was tending to be lenient and giving them the benefit of the doubt in that regard. Sheriff Cloninger asked what happens if they continue to fail to respond. Ron replied that staff simply continues to remind them until they do.

Sheriff Cloninger asked if funds are cut off, or if they ever have been cut off, for failure to respond. Richard Taylor replied that the Wireless 911 Board had only cut off fund distribution to one county due to such a problem. Sheriff Cloninger said that he didn't want to be too hard on anybody, but that the Board has a lot of decisions to make, and having up to date information is important. Chairman Willis asked Richard Taylor to draft a letter to those 4 local governments with outstanding 2006 reports stating that their funding will be withheld until the reports are finalized. Regarding the outstanding 2007 reports, Chairman Willis asked Richard Taylor to send reminders requesting report submission by February 10, noting that fund distributions to them may be withheld if they fail to meet that deadline.

### **Update on Settlement with Virgin Mobile**

Richard Taylor reported that pursuant to Board approval at the last meeting to refund some contested prepaid surcharge revenue to Virgin Mobile based upon updated accounting, Virgin Mobile signed a release agreeing to accept the amount of \$421k determined by Board accounting to be available to them. That amount was paid prior to December 31, 2007.

### **Discussion on PSAP Fund Distribution Based on New Statutory Requirements**

Richard Taylor opened discussion by pointing out that the new statute clearly directs that only Primary PSAPs may receive fund distributions, and that Primary PSAPs are the first point of reception of a 911 call. Secondary PSAPs do not receive the initial 911 call, but instead receive transfers from Primary PSAPs. He observed that anecdotal information indicates that when wireline and wireless revenues were independent of one another, some local governments used a portion of their wireline revenue statutorily mandated for Primary PSAP use to assist secondary PSAPs within their jurisdictions as well. Wireless funds were never approved for such use due to the compliance review process. He said that now that all 911 fund use will be subject to compliance review, it is an issue we're going to run into.

Mr. Taylor noted that the Wireless 911 Board established procedures for local governments to follow to establish back-up PSAPs, and that secondary PSAPs could conceivably qualify for back-up PSAP funding if they met those procedural guidelines, but that to date very few local governments have gone that route.

Wesley Reid asked why or how the Board can interfere with how a local government uses its 911 funds if it has interlocal agreements with secondary PSAPs within its jurisdiction. He cited several situations where he knew such arrangements were in place, such as with Charlotte Police receiving revenue and sharing it with Medic and Charlotte Fire. Richard Bradford observed that the Board gets involved because the statute requires the Board to review how funds are being used, although he believes the question of whether a Primary PSAP may elect to share its revenue with secondary PSAPs remains open. He said that since the statute is new, an opportunity for interpretation is available to the Board, which is within its power up to a certain limit. He further observed that policies and procedures brought forward from the Wireless Board should be re-examined in light of the new statute, and that the re-examination, in his opinion, requires very diligent and very quick work from this body. Mr. Reid agreed with that observation, and asked if Mr. Taylor intended for discussion to lead to a decision today. Mr. Taylor replied the topic was on the agenda because counties or cities that have been using 911 funds for secondary PSAPs will not be able to continue that practice under the new statute unless the Board makes some other determination. He said he doesn't know if that is something the Board can do, but before distribution of funds under the new distribution model begins in March, we owe it to the local governments to tell them how they will be able to use those funds.

Discussion followed regarding how secondaries could qualify as back-up PSAPs, and how that might be a work-around in some cases. Joe Durham observed that the statute clearly indicates that fund distributions may only be made to Primary PSAPs, and that it is important to establish under what conditions Primaries could make distributions to secondaries. He speculated that it may need to be done by a committee, but he agreed with Mr. Bradford that it needs to be done very quickly.

Chairman Willis said that in listening to the discussion several thoughts had come to him about how to get through the next few months in light of things like this. He said he does not think the Board can simply abdicate this and just say it's going to pass through the things that were funded before, because he believes that one of the reasons the statute was reconstructed and pulled together was, in fact, to try to have some sense about this funding and how it is used in various places. He said that just because we have a new statute that goes into effect on January 1, 2008, we cannot, in all good conscience, de-fund something that is providing service to a group of citizens without an alternative or giving some time for them to change.

Chairman Willis said he thinks there are a couple of things the Board should do. One is that it should make sure it does not cease funding an operating PSAP, negatively impacting the PSAP in this short period of time. He said we need to think about how we can do that; what mechanism we can use to do that. He said perhaps it could be that they be allowed to continue the practice for a pre-defined length of time, adding that he thinks although it might not be to the letter of what the statute mandates, he believes it

would be defensible in transition. He said the second suggestion he would make is that we clearly state that this is for an interim, limited period of time until an overall plan is created to understand the best use and distribution of 911 funds. He added we do have the Comprehensive Statewide Plan study due in July, and that there will be a period of time necessary to digest the information it provides to develop a plan that this Board can adopt. He asked Richard Taylor and Richard Bradford how quickly they thought this should move forward.

Richard Taylor suggested that staff contact all of the Primary PSAPs prior to the February 8 meeting to determine where this situation exists, and where it does, to what degree. Those findings could be reported back to the Board at that meeting so it would have more than just anecdotal information to consider in determining a way forward. He added that even if we do allow funds to continue to flow to secondary PSAPs during a transition period, however, those funds would still have to be used only for eligible 911 expenses. Chairman Willis underscored that, saying that without question we're going to apply a diligence to review of spending that has not been there before; we're required to do that.

Chairman Willis summarized the discussion saying we're not going to take action today; staff is going to gather data to try to establish the extent of this issue, the funding required to mitigate it over a period of time, and we will plan to take action in February.

### **Discussion of Proposed Rulemaking**

Richard Bradford reviewed rulemaking for those Board members who might not have been present when it was discussed at Wireless 911 Board meetings. He observed that the Wireless Board had rule making authority which it never exercised, and that this Board has rulemaking authority as well. He explained that rule making is a procedure that goes in front of the Rules Review Commission, which is a separate body, the purpose of which is to enact administrative rules by which you execute the statute. He said rule making typically proceeds somewhat publicly and somewhat not publicly. The not public part is that it is advisable for the Rules Coordinator and the Board attorney to meet with staff to look at prospective rules and see what staff opinion is before proceeding publicly. It is something Mr. Bradford would suggest we do. The public part is that the Rules Review Commission meets in public, and there is also a public comment period, which gives the public and interested parties an opportunity to review rules and to make comment on them.

Mr. Bradford observed that some time ago he drafted a set of rules. As an example, he offered he had drafted a rule that required registration of CMRS providers, the reason being that this Board needs to know whom to contact and how to do so. He noted that in the past we didn't always have up to date information from the providers; we didn't actually even know how many were operating in the State. He added that he had suggested to Richard Taylor that rule making was appropriate for a committee to perform, and he believes that to be true today. He said it is a lengthy process; you used to be able to count on eighteen months minimum. He's not sure it still takes that long, but it does take awhile, and because it takes awhile, policy and procedure issues as previously discussed need to be brought forward and acted upon while we move forward with rule making at its own pace.



Mr. Bradford said there is a copy of the draft rules that was sent out to Wireless Board members some time ago still accessible through the website for Board members. He observed that given the practicality of how long it takes to pass a rule, there is a legitimate inquiry for the Board to make as to whether it wants something "set in stone" that can only be changed by going back through this process, or if it believes that there is sufficient authority to do it by policy and procedure which you can change more frequently.

Chairman Willis said he agrees with Mr. Bradford that a rules committee should be formed. Joe Durham asked if that committee would establish both rules and policy and procedure, and Chairman Willis said he didn't think the two should be mixed. Mr. Durham asked for clarification of what the committee's charge would be. Chairman Willis replied that given the expected evolution time for a firm set of rules, which Mr. Bradford said he hoped would be ten to sixteen months, the Board will certainly have to make policy and procedure decisions long before that happens. He views the work of a rules committee to be a long term process to frame the behavior of the Board in a consistent way. By way of example, he noted that Board Chairs for organizations such as this one come and go; rules help Boards keep their direction and institutional memory through changes in membership, Chairs, Executive Directors, etc.

Slayton Stewart asked if it was our intention for the rules to become the statute. Mr. Taylor replied no, and Mr. Bradford explained that administrative rules do not have the same effect as a general statute passed by the Legislature, but are "just junior" to the statute. He said that courts will enforce administrative rules that are properly made. The question when a rule is challenged is whether it was properly made, and whether the body that is executing the rule has done so properly. He noted that rule making does offer some opportunity to govern entities, and it does offer some responsibility to the Board. But with that authority comes the ability to better manage, so sometimes it is best to have rules that are not "terribly specific". Returning to his example of a CMRS provider registration rule, he explained that once that database was constructed, the Board would have rapid access to CMRS contact information. Conversely, however, creating a rule which governs technology that is constantly changing might result in the Board's inability to quickly adapt to such change and be able to reimburse something that a majority of PSAPs have implemented for the provision of enhanced 911 service, which obviously would not be desirable.

Chairman Willis asked if any Board members wished to volunteer to serve on a rule making committee. Richard Bradford suggested membership be left open until the Board is fully populated with all the appointees, and Chairman Willis agreed, adding that the size of the committee doesn't necessarily need to be determined at this time. Jean Thaxton, Wesley Reid, Robert Cherry, and Jason Barbour volunteered. Slayton Stewart asked if there was a target size for the committee, and Mr. Bradford said he did not think that was necessary, but that he did think it is helpful to have different perspectives represented on the committee, so in terms of Board members he thought it would be helpful to have different sectors represented.

Chairman Willis asked Richard Taylor and Richard Bradford to have a "plan of attack" ready by the February 8 meeting for how to proceed. Richard Bradford suggested an

initial gathering could be a teleconference, and encouraged all involved to review the draft on the website. He reminded everyone that it is a draft. In compiling it he looked at the rules in all 50 states, although he discovered that not all of them have rules, and then adapted some of the concepts to the North Carolina statute.

### **Discussion on Use of 911 Funds: Previous Wireless Versus Previous Wireline Uses**

Richard Taylor said he would get this discussion started, noting that it will probably dovetail into agenda Item 15, the NENA and APCO request to establish an allowable expenditures list. He mentioned that when the legislation passed last year he received many questions about eligible use of funds, as local governments had not experienced compliance review of wireline fund uses under the former statute, and were concerned about how compliance review under the new statute would affect them; that local interpretations of the statute might differ from Board interpretations. Referring back to the earlier discussion about this being the time of year when local governments are putting their budgets for the upcoming year together, he said the flood of calls he experienced almost always related to whether or not local governments would be able to continue funding as they had in the past. He said that although some things, such as radio systems, were obviously not going to be eligible for funding, there are many more things with more subtle distinctions, and that staff needs Board guidance to determine how to proceed with them.

One example Mr. Taylor offered was addressing. Although the word still appears in the statutory description of eligible expenditures, it is something that has always been interpreted locally and not by the Board. Staff needs to know what activities or services that word encompasses. Mr. Taylor referred to a list staff had compiled of areas where it expects to encounter differences between local interpretations and interpretations made by staff during former Wireless 911 Board compliance reviews, observing that guidance on these issues and others like them is what staff is seeking from the Board. He said he didn't know whether the Board would wish to create a committee to look at these issues, but reiterated that whatever approach is taken, the staff needs Board guidance.

Sheriff Cloninger said he felt a committee was necessary, and Chairman Willis concurred. Chairman Willis said he did not believe this was something that could just be left to staff to sort out; the Board needs to do more than that. He proposed that before going into this topic any further, he would like to exercise his option as Chair to move on to discussion of the next agenda item before deciding how to proceed.

Jerry Jones asked if there was a clear demarcation of the jurisdiction of this Board. Chairman Willis observed that there are boundaries, but there also is, to some extent, discretion. Richard Bradford replied the boundary has been up to the point of dispatch; it's really the call taking process. Mr. Jones said that had been his understanding; that it had to do with the telephone system. Mr. Bradford added that the statute contains language that makes reference to that, but of course, what the call taking process entails is subject to discussion.

### **Request by NENA/APCO to Establish Allowable Expenditures List**

Wesley Reid opened dialogue about this agenda item, noting that he would welcome input from David Dodd (the APCO representative on the Board) and Jason Barbour (the newly seated second NENA representative on the Board) as well. Drawing attention to the letter and list provided to Board members prior to the meeting, Mr. Reid said he felt the executive boards of both of these organizations were hoping to provide a roadmap toward identifying what constitutes items that money can be spent on. He noted that the items listed are based on accepted NENA standards for PSAP operations nationwide. He said they are proposing a tiered approach to meeting baseline standards, ensuring that PSAPs meet requirements for one tier before moving on to the next, with an ultimate goal of implementing next generation 911 throughout the State.

Discussion followed regarding how a tiered implementation might work; that some items, such as administrative lines, will require close examination to ensure they are not too broadly interpreted. Sheriff Cloninger observed that he would not be able to vote on the list today, as he would need to be educated about many of the items that appear on it. Chairman Willis said the Board would not be expected to vote on the list today, because he does not think that is fair to either Board members or to the list. He said he does believe this begs yet another committee; somebody to take this list and vet it and provide recommendations back to the Board. Mr. Reid asked if he was thinking of one committee to look at the issues raised in agenda item 14 as well as this list, or of separate committees to examine each. Chairman Willis said he thought both issues were substantively the same; that the ultimate result will be a list of what the Board considers eligible items.

Jason Barbour observed that this should probably be treated like the secondary PSAP funding issue; that there should be a timeline that allows local governments to adjust their spending to fit the list if they have been budgeting and spending wireline revenue on items that are not on the list. Chairman Willis said the one constraint he would place upon that is that we may discover spending on things that have never been appropriate on anybody's list, and that we cannot look the other way regarding those expenditures. He said he does not believe we have the discretion to allow that to continue as we go forward.

Sheriff Cloninger volunteered to serve on the committee, followed by Joe Durham, Christi Derreberry, David Dodd, Jason Barbour, Dave Corn, and Wesley Reid. Chairman Willis recognized guest Rebecca Troutman representing NCACC, who expressed concern that wireless funds are continuing to be disbursed, but that distribution of the new combined fund revenue won't begin until March. She said local governments need the funds now, need to know how they can use these funds now, and asked what they are to do at this time. Chairman Willis observed that was a great question, and Wesley Reid asked if we could follow the same recommendation as before; that we not require local governments to cease funding their operations until we get back to them with clear cut directions. Chairman Willis said he didn't have a problem with that, but that he also wants to be sure that we are not opening doors that are not already open if we choose to do this. He said he thinks it is appropriate that we continue funding currently in place through this mechanism until we decide what's in or out, but he thinks we should also be very careful before we allow additional types of funding or

anything that isn't already in place to go at this time. He said that was just his opinion, and he would respond to the pleasure of the Board.

Jason Barbour asked if it was Chairman Willis' expectation that this committee should deliver its recommendation back to the Board at the February 8 meeting. Chairman Willis said he believes it is critical that we have a working list by that time, but not that it should necessarily be a permanent list, so yes, he does expect a recommendation from the committee at that meeting. Jason Barbour said he would challenge the Board to be prepared to vote on it at that meeting, because there are cities and counties out there that don't know what they can do. Chairman Willis said he understood that, but he also believes that if you're going to ask a board prior to full formation of a lot of things to vote on something, you should expect to be conservative in the list put forward, because "reeling it back in" is a lot harder than "opening it back up".

Richard Taylor proposed two possible dates for the use of funding committee to meet before February 8: Wednesday, January 23<sup>rd</sup>, or Tuesday, January 29<sup>th</sup>. January 29<sup>th</sup> was selected, at 10:00 AM at ITS, and Chairman Willis noted that for those who could not travel a dial-in number will be provided to participate via teleconference.

Joe Durham asked, referring back to Rebecca Troutman's and Jason Barbour's earlier comments, what do we tell local governments to do? Do we tell them to continue with caution? If staff members receive phone calls, is that what they should say? Local governments should be aware that these are issues that are under review, discussion, and evaluation at this stage, because things they have done in the past may not be allowable in the future. Chairman Willis responded that although he may be incorrect, he would assume that people executing according to budgets know, at least by statute, what should be in and out, so they're not buying fire trucks and the like. But for the things that are "in the middle", he thinks we can say we will try to continue what we've been paying for and refine the list and give some notice and some time to do it. Mr. Durham said that he guessed it is a big deal to send out 500 letters, but that he didn't know how else that could be communicated to the local governments and the PSAPs. Chairman Willis said he wouldn't know how to best do that, either, but that he also thought we would at least have to get through this next committee meeting before we would even know what to send them to give them guidance. Mr. Durham said the things already stated would, to his mind, be useful to a local government.

Chairman Willis suggested that maybe, at a minimum, we should send out something that says this is something that is under review, we expect to schedule meetings and have a more definitive time frame in this period of time, but added that he doesn't know how to pre-dispose this decision to the point that we don't get ahead of the Board's discretion. He asked Ms. Troutman if she had any suggestions. She replied that she was a little bit confused because the "landline" funds and the wireless funds and uses have always followed the same regulations. She said local governments have always been operating under the exact same listing of things they could spend their money on as the Board. Chairman Willis observed that from what he's hearing that that assumption may not be correct, and returning to Mr. Durham, said that he was not sure how to address his concern.

Richard Bradford said the only suggestion he had was that the statute does identify some things that cannot be funded, and so a letter might identify those. As to things that might be funded, he thinks it would be fair to say that an active committee has been designated, they expect to come back at the next Board meeting with, at a minimum, a working list to recommend, and will move forward from there. He suggested that such a letter would show that we are acting in good faith, that the Board is active, a committee has been appointed, and we are proceeding with due diligence but also with some speed to address the issues.

Chairman Willis said he believed we must do that, and asked Richard Taylor and Richard Bradford to draft that communication. Wesley Reid asked if the committee meeting would be open to the public, and Chairman Willis said that since the committee has no authority to set this list since it's just preparing a set of recommendations to the Board, it is not required that it be a public meeting. Richard Bradford confirmed that.

Chairman Willis encouraged the committee not to try to solve the entire problem in this committee meeting. He said it will take iterations, and do not forget that the committee isn't deciding this; this Board is deciding it. A set of recommendations is going to come before the Board, we will publish them ahead of time, and during that particular meeting we will allow people to have public comment and will set up a time to hear concerns. He added there are a number of things we just know are in, and there are a number of things we know by statute aren't in, so let's have both of those as well defined as possible so that we can spend our time on the gray area of things that are difficult and are most concerning. So if this committee can come with a list that says "We know these are in" and "We know these are not in", and "Here are the ones that we have on the table", if it takes the entire next Board meeting to get through this we should do it. Then he said we will take this entire Board meeting to get through this list and make sure everybody is heard.

Chairman Willis said he was not going to take up agenda item 16, mainly because he believes we already have all that this Board can pay attention to in front of us for the next month or so to get ready for checks and to do things as fairly as possible. Saying he thought we could postpone this, he asked Richard Bradford's opinion, and Mr. Bradford said it could wait several months.

Chairman Willis asked for a motion to adjourn, Joe Durham so moved, Christi Derreberry seconded, and the motion carried without objection. The meeting adjourned at 12:37 PM.